THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.120, 349 and 468 of 2006

Between:

V.Somaiah Goud, S/o.(Late) Narsa Goud

And others

… Petitioners

AND

The District Collector, Medak at Sangareddy

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.120, 349 and 468 of 2006

COMMON ORDER:

In these three writ petitions, the petitioners assail the public auction-cum-tender notification dated 22.12.2005 issued by the District Collector, Medak at Sangareddy. The petitioners in W.P.Nos.120 and 468 of 2006 are aggrieved by the impugned notification insofar as the same is concerned with the land admeasuring Acs.0.18 guntas (2,178 Sq.yards) in survey No.182 (part) and the lone petitioner in W.P.No.349 of 2006 is aggrieved by the impugned notification insofar as the same is concerned with the land in survey No.993/2 (part).

The land in survey No.182 (part) was allegedly in possession of three brothers Narsa Goud, Lakshmaiah and Ramaiah. They were also owners of agricultural land in survey Nos.178 to 181, 183, 184 and 186 to 188 of Ramachandrapuram. Their private land is allegedly adjacent to the land in survey No.182 (part) and therefore, they allegedly occupied and cultivating the same. The petitioners in W.P. No.120 of 2006 claim to be the legal heirs of Narsa Goud whereas the petitioner in W.P.No.468 of 2006 claims to be the legal heir of Lakshmaiah. Be that as it is, it is the case of the petitioners in these two writ petitions that they made representations to the Mandal Revenue Officer, Patancheru (MRO) seeking assignment of the land for market value, that the MRO recommended for assignment/alienation to the petitioners by sending proposal to the Revenue Divisional Officer (RDO) on 07.7.1999 and therefore, during the pendency of the said representation for alienation of the land, it would be arbitrary for the District Collector to put the land to public auction. In W.P.No.468 of 2006, it is also alleged that the petitioner made a representation on 09.10.2005 to the MRO seeking assignment, which was forwarded by the MRO to the RDO on 19.11.2005. It is also their case that the same is under consideration before the District Collector, who instructed the MRO to send

a report regarding the eligibility status of the petitioners for assignment of land.

In W.P.No.349 of 2006, it is the case of the petitioner that the land in survey No.993/2 admeasuring Acs.4.04 guntas originally belonged to one N.Shankar, who was proprietor of M/s.Mallikarjuna Metal Industries and who obtained loan from Andhra Pradesh State Financial Corporation (APSFC). It is his case that when the said industry committed default, the land was put to action and the petitioner purchased the same in auction conducted by APSFC and therefore, the government or the District Collector has no right to sell the property in public auction.

The learned Counsel for the petitioner in W.P.No.349 of 2006 submits that there is no government land in survey No.993/2 (part), that the land comprising in survey No.993/2 (part) belongs to Sri Bramaramba Mallikarjuna Swamy Devasthanam, that the District Collector is now going to auction the property in survey No.842, which belong to M/s.Mallikarjuna Metal Industries and purchased by the petitioner in the auction conducted by APSFC. **Per contra**, the learned Assistant Government Pleader for Revenue (Assignment) brought to the notice of this Court the panchanama dated 09.8.2000 under which the petitioner was handed over the property by APSFC and submits that the petitioner purchased the land in survey No.842 (plot Nos.1 to 6) of Ameenpura village in Patancheru Man;dal and that the land now proposed to be auctioned is the land in survey No.993/2 (part) admeasuring Acs.4.04 gts. He also submits that except describing the property as plot Nos.1 to 6 in survey No.842 of Ameenpura village, the exact area which was handed over to the petitioner is not specifically mentioned in the panchanama and therefore, he cannot claim the property.

The learned Counsel for the petitioners in W.P.Nos.120 and 468 of 2006 submit that the action of the District Collector in putting the petitioners' property to public auction as illegal and arbitrary. According to the learned Counsel, when the petitioners are in possession of the property, without first taking any steps for eviction of them, no auction can be conducted. Secondly, they would urge that all the petitioners have been requesting the MRO to assign the land to them on market value, that the proposals were submitted by the MRO to the RDO, that these proposals are pending with the District Collector and therefore, unless and until the proposals for assignment are finalised, it is arbitrary to sell the land, which is in occupation of the petitioners, in public auction. They also would urge that as per Rule IX of the Assignment Rules promulgated in G.O.Ms.No.1406 dated 25.7.1958 and Rule IV of the Revised Assignment Policy vide G.O.Ms.No.1724 dated 26.8.1959, the petitioners being the owners of the land adjoining nala, are entitled for assignment on payment of full market value and this right cannot be denied by the authorities without first considering the request for assignment.

The learned Assistant Government Pleader for Revenue (Assignment) Submits that Rule IX of the Assignment Rules or Rule IV of Revised Assignment Policy does not confer any absolute right on the adjoining owners to seek assignment of the government land. Secondly, the land in survey No.182 (part) is not in the midst of the petitioners' lands and it is situated adjoining nala and cannot be said to be contiguous and necessary for the convenient enjoyment of the lands owned by the

petitioners. Nextly, he would urge that the land in question is not being put to any agricultural use and the same is surrounded by house sites, and that the petitioners sold away the land and they are not the owners or possessors of the land in survey Nos.178 to 181 etc., which they claim to be the owners. The learned Assistant Government Pleader filed original encumbrance certificates (162 pages) in support of this submission.

Insofar as the claim of the petitioner in W.P.No.349 of 2006 is concerned, this Court already found sufficient evidence on record to show that the petitioner therein purchased plot Nos.1 to 6 in survey No.842 and he cannot be said to have any *locus standi* insofar as the sale of the land in survey Nos.993/2 (part) of Ramachandrapuram. Therefore, the said writ petition is wholly misconceived.

The other two writ petitions are also liable to be dismissed for reasons more than one. First, either under Rule IX of Assignment Rules or Rule IV of Revised Assignment Policy, the petitioners cannot be said to have any right to compel the State to assign the land to them. These rules read as under.

> **IX. Claims of adjoining land-holders: -** Isolated plots of land not exceeding 40 cents of wet or two acres of dry contiguous to and necessary for the convenient enjoyment of the lands privately owned by a ryot may be assigned to him on payment of full market value though he may not be landless poor person.

> **IV. Claims of adjoining land holders:-** Isolated plots of land not exceeding one acre of wet or two acres of dry contiguous to and necessary for the convenient enjoyment of the lands privately owned by ryots may be assigned to him on payment of full market value though he may not be a landless poor person.

A plain reading of the above rules would show that discretion is given to the revenue authorities to assign isolated plot of land not exceeding Acs.0.40 (Acs.0.16 guntas) of wet or Acs.2.00 of dry contiguous land, which is necessary for convenient enjoyment of the land privately owned by the ryots. Under the Revised Assignment Policy, the extent of the land that can be given to an adjoining landowner is Ac.1.00 of wetland or Acs.2.00 of dry land but other conditions should be satisfied. A location sketch map showing survey No.182 is annexed to W.P.No.468 of 2006, which would show that the land in survey No.182 cannot be contiguous to the lands in survey Nos.178 to 188 etc. The petitioners have not placed before this Court any material to show that without the land in survey No.182 (part), they cannot enjoy their private lands. Secondly, the mere request made by the petitioners in 1999 or 2005 and the action of the MRO in forwarding the said proposal to the higher authorities, does not prevent the District Collector to auction the property. It is well settled that disposal of the public property by public auction would subserve public interest by ensuring transparency and dispelling any suspicion in disposal of the property. This Court has examined encumbrance certificates (162 pages) produced by Assistant Government Pleader. These would show that the land ceased to agricultural land

and the petitioners have already sold the property in small extents as house sites. They cannot be said to have any interest now and for that reason, they cannot have any objection when the government auctions property especially when there is no denial that it is a government property.

In this connection, a reference may be made to the decision of this Court in **Sri Sarva Sangha Seva Ashram v. District Collector, Visakhapatnam**. In the said case, 250 members of the petitioner society encroached upon Acs.10.00 of land in survey No.275 at Adavivaram Panchayat in Visakhapatnam District belonging to temple. When there was threat of demolition of the structures, the petitioner filed a writ petition, which was disposed of by this Court directing the temple management to consider the application of the petitioner society for purchase of the land. Thereafter an application was made to the temple but no action was taken thereon. The petitioner again filed writ petition seeking a writ of Mandamus directing the temple to grant patta in respect of the land and to restrain the respondents therein from interfering with the possession of the subject land. While holding that unless and until a person shows that he has a right to be considered, a writ of Mandamus cannot be issued under Article 226 of Constitution of India, this Court observed as under.

> Thirdly, the so-called application made by the petitioner on 14.7.1992 is extra-legal in nature and no writ will lie to the respondent-management of the temple to consider and dispose of an extra-legal application. In expressing this opinion, I need not dilate further, because this Court has had an occasion in **Water Users' Association, Peddacheruvu v. The District Collector, Krishna District** to consider similar question, and after referring to the binding authorities of the Supreme Court, opined that no direction shall issue to an authority under Article 226 to consider and dispose of extra-legal petitions, correspondences, letters etc. No doubt if an applicant for the writ under Article 226 shows that he has a right to be considered at the hands of the respondent-public authorities, writ will like to such authorities to consider his claim/application, as the case may be. But, such right to be considered should be established with reference to the Constitution or public law, statute or common law principles.

The observations made by this Court are relevant in the context of the present case and petitioners cannot be held to have any right to compel the government to assign the land to them at market value. The writ petitions are devoid of any merit. The petitioners have not demonstrated any inchoate right or enforceable right.

The writ petitions, for the above reasons, are dismissed. No costs.

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(**V.V.S.RAO, J**)

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